

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (16-030)**

Subject

Initiative petition from Aundrea Riffle regarding a proposed amendment to Chapter 195 of the Revised Statutes of Missouri. (Received February 13, 2015)

Date

March 6, 2015

Description

This proposal would amend Chapter 195 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Health and Senior Services**, the **Department of Insurance**, **Financial Institutions and Professional Registration**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's office**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Department of Transportation**, the **Office of Administration**, the **Office of State Courts Administrator**, the **Missouri Senate**, the **Secretary of State's office**, the **Office of the State Public Defender**, the **State Treasurer's office**, **Adair County**, **Boone County**, **Callaway County**, **Cass County**, **Clay County**, **Cole County**, **Greene County**, **Jackson County Legislators**, **Jasper County**, **St. Charles County**, **St. Louis County**, **Taney County**, the **City of Cape Girardeau**, the **City of Columbia**, the **City of Jefferson**, the **City of Joplin**, the **City of Kansas City**, the **City of Kirksville**, the **City of Mexico**, the **City of Raymore**, the **City of St. Joseph**, the **City of St. Louis**, the **City of Springfield**, the **City of Union**, the **City of Wentzville**, the **City of West Plains**, **Cape Girardeau 63 School District**, **Hannibal 60 School District**, **State Technical College of Missouri**, **Metropolitan Community College**, **University of Missouri**, **St. Louis Community College**, and the **Missouri Office of Prosecution Services**.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated Section 195.297.14 RSMo appears to require the annual savings, created by the sections' provisions, to be transferred into the Saving Families and Students Fund. Twenty-five percent of the funds would go toward grants aimed at reducing truancy and drop-outs among K-12 students. Their department has no means to calculate the extent of this savings. Any funds would be additional monies to the local school districts.

Officials from the **Department of Higher Education** indicated they have determined it would have no direct fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their agency.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated:

This proposal includes language that would require the Governor's office to calculate the savings created by these alternative sentences. It would require that the savings be transferred to the Saving Families and Students Fund. Half of these funds would be shared by the Department of Mental Health and Department of Corrections, Probation and Parole to support mental health and drug abuse treatment services that are designed to help keep individuals out of prison and jail.

This proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated the department would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated this petition amends only the old code and not the revised code for 2017. The 2017 code will repeal the no probation

and parole conditions for the type off offenses listed in this proposal. Therefore, there is no impact to their department.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will not have an impact on their department.

Officials from the **Department of Public Safety** indicated there is no fiscal impact for their department for this legislation.

The Missouri State Highway Patrol indicated it anticipates no fiscal impact.

Officials from the **Department of Social Services** indicated no fiscal impact on their agency.

Officials from the **Governor's Office** indicated there should be no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Office of Administration** indicated:

This petition creates the “Smarter Non-Violent, Prior and Persistent Drug Offenders Act” which is applicable to nonviolent offenders serving without probation or parole sentences for drug felonies, for offenses occurring on or after August 3, 1993. Minimum prison terms are reduced based on the number of previous convictions for non-violent drug felonies unrelated to the present offense.

The courts retain discretion to lower sentences and order restorative justice methods, such as prison work programs, work release, home-based incarceration, treatment programs outside of prison, probation and parole options, and any other programs when applicable. The court may also order other restorative justice methods such as:

- Restitution to any victim or statutorily created fund for costs incurred as a result of the offender’s actions,
- Offender treatment programs,
- Mandatory community service,
- Work release programs in local facilities and;
- Payment to the “Saving Families and Students Fund” ranging from \$100-\$500.

In certain cases, the court may order a designated amount of restitution to a county law enforcement restitution fund, not to exceed \$10,000.

The Governor's administration must calculate the annual savings to the state by this measure and annually transfer General Revenue in that amount to the newly created "Saving Families and Students Fund". This fund is to be used:

- 25% for grants aimed at reducing truancy and dropouts among K-12 students in MO public schools (Missouri Department of Education)
- 10% for victims services grants (Missouri Restorative Justice)
- 50% to support mental health and drug abuse treatment services that are designed to help keep individuals out of prison and jail. (Department of Mental Health and Department of Corrections)
- 15% to create and maintain employment training for convicted felons, aimed at lowering recidivism. (Department of Corrections)

The Office of Administration would have the responsibility for calculating the annual savings to the state and ensure the General Revenue transfer occurs, if applicable. The Office of Administration does not have this expertise and would expect to contract for those services at an estimated cost of \$200,000.

Total State Revenue (TSR) could be impacted to the extent the monies are deposited in the "Saving Families and Students Fund". There could also be a positive impact to TSR if any restitution is ordered to be paid to a state fund.

An argument can be made that this petition would have no fiscal impact because of technical drafting issues. Two of the sections referred to in Section 195.297 RSMo will not exist after January 1, 2017 when the criminal code revisions are implemented. In addition, Section 195.297.11 RSMo states that sections of law which are inconsistent with Section 195.297 RSMo shall no longer be in force. Sections of law cannot be repealed by reference; each section must be listed separately.

Officials from the **Office of State Courts Administrator** indicated the proposed initiative petition would create the "Smarter Non-Violent, Prior and Persistent Drug Offenders Act".

It is unclear if this act designated to the Missouri Department of Mental Health for drug abuse treatment will be "in replacement of" or "in addition to" existing funding for drug abuse treatment services. There may be some impact but we are unable to estimate if there would be a fiscal impact to the treatment court programs.

Officials from the **Missouri Senate** indicated no fiscal impact for their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this

item is adjusted each year depending upon the election cycle with \$1.3 million historically appropriated in odd numbered fiscal years and \$100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost \$2.17 million to publish (an average of \$434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and the Secretary of State's Office was appropriated \$1.19 million to publish the full text of the measures. Due to this reduced funding, the Secretary of State's office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost \$1.1 million to publish (an average of \$122,000 per issue). Despite the FY 2015 reduction, the Secretary of State's office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, our office reserves the right to request funding to meet the cost of its publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any substantial impact on their office. The number of public defender cases would remain constant, although sentences for specific crimes would change.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

Officials from the **City of St. Joseph** indicated this initiative has no apparent impact on expenditures at the city level. There could be grant funds available to the City's Health Department through the provisions of Section 195.297.14(3) RSMo. But any specific amount would be speculative.

Officials from the **Metropolitan Community College** indicated this would not have a fiscal impact on their college.

Officials from the **Missouri Office of Prosecution Services** indicated no measurable fiscal impact to their office. However, the proposal creates new potential litigation, which will create new duties for prosecuting attorneys. The creation of new duties would create additional responsibilities for prosecuting attorneys which may in turn result in additional unfunded costs which are difficult to determine.

The State Auditor's office did not receive a response from the **Missouri House of Representatives**, the **Department of Transportation**, the **State Treasurer's office**, **Adair County**, **Boone County**, **Callaway County**, **Cass County**, **Clay County**, **Cole County**, **Greene County**, **Jackson County Legislators**, **Jasper County**, **St. Charles**

County, St. Louis County, Taney County, the City of Cape Girardeau, the City of Columbia, the City of Jefferson, the City of Joplin, the City of Kirksville, the City of Mexico, the City of Raymore, the City of St. Louis, the City of Springfield, the City of Union, the City of Wentzville, the City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, University of Missouri, and St. Louis Community College.

Fiscal Note Summary

Any potential costs or savings to state and local government entities is unknown.